

06-06-05

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of)

SULLIVAN)

Serial No. 09/477,954)

Filed: January 5, 2000)

For: ANTENNA SYSTEM FOR)

A WIRELESS)

COMMUNICATION DEVICE)

Group Art Unit: 2686

Examiner: Perez Gutierrez, R.

CERTIFICATE OF MAILING BY EXPRESS MAIL

Mail Stop: APPEAL BRIEF-PATENTS

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

The undersigned hereby certifies that the enclosed

1. Response to Notification of Non-Compliant Appeal Brief;
2. Appeal Brief Transmittal (in duplicate);
3. Appeal Brief (in triplicate);
4. Certificate of Mailing by Express Mail; and
5. Return Card,

relating to the above application, were deposited as "Express Mail," Mailing Label No. EV268507184US with the United States Postal Service, addressed to Commissioner for Patents, Mail Stop: Amendment, P.O. Box 1450, Alexandria, VA 22313, on this June 2, 2005.

June 2, 2005

Mailer

June 2, 2005

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Atty. Docket No. 38105.830037.US0

Serial No. 09/477,954

Express Mail No. EL268507184US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of)
SULLIVAN)
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Examiner: Perez Gutierrez, R.

RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Notification of Non-Compliant Appeal Brief mailed May 5, 2005, for which the period to respond extends until June 5, 2005, the applicant respectfully resubmits appeal brief.

REMARKS begin on page 2.

REMARKS

The applicant re-submits the appeal brief originally filed April 13, 2005. The applicant respectfully submits that the appeal as originally filed is substantially the same as the attached appeal brief with the only difference being the specific headings requested by the Examiner.

With regard to specific items the Examiner believed were deficient:

Item 1: The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order. The applicant believes all items are presented in the proper order. The only items not included in the appeal required under the CFR are item (ix) "Evidence appendix" and item (x) "Related proceeding appendix." These items are not supplied because there is no Evidence to append as part of an appendix nor is there a related proceeding appendix. Thus, the applicant respectfully submits the brief as filed is complete with all items.

Item 2: The brief does not contain a statement of the status of all the claims (e.g., rejected, allowed or confirmed, withdrawn, objected to, canceled) or does not identify the appealed claims. The Examiner is respectfully directed to the re-submitted appeal, page 2, STATUS OF CLAIMS. This section was updated to reflect claims 1 and 2 have been canceled by the application (although the PTO records appear to incorrectly indicate the claims as withdrawn rather than canceled).

Item 4: The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and the the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to

each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters. The summary of invention has been updated to include page and line numbers.

Item 5: The brief does not contain a concise statement of each ground of rejection present for appeal. The title of the section previously headed ISSUES has been amended to state "GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL."

Item 6: The brief does not present an argument under a separate heading for each ground of rejection on appeal. Appropriate heading corresponding to the Grounds of Rejection to be Reviewed on Appeal have been provided.

The applicant respectfully submits that the re-submitted appeal contains each of the formal items required by the Examiner.

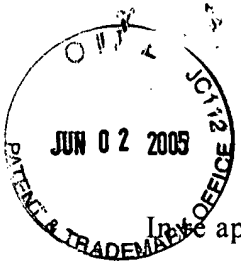
No fee is believed due to re-submit the appeal brief.

Signed this 2nd day of June 2005.

Respectfully submitted,



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of)

SULLIVAN)

Serial No. 09/477,954)

Filed: January 5, 2000)

For: ANTENNA SYSTEM FOR)

A WIRELESS)

COMMUNICATION DEVICE)

Group Art Unit: 2686

Examiner: Perez Gutierrez, R.

APPEAL BRIEF TRANSMITTAL

Mail Stop: APPEAL BRIEFS - PATENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Transmitted herewith for filing is an APPEAL BRIEF, in triplicate, for the above-identified application. Since the fee was previously paid, no fee is believed to be due at this time. However, you are authorized to charge deposit account 08-2623 to cover any fees that may be due.

The Commissioner is hereby authorized to charge payment of any discrepancies in fees associated with this communication, or credit any overpayment, to Deposit Account No. 08-2623. A duplicate copy of this transmittal is enclosed.

Signed this 2 day of June 2005.

Respectfully submitted,

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Atty. Docket No. 38105.830037.US0
Serial No. 09/477,954
Express Mail No. EV268507184US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of)	
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COMMUNICATION DEVICE)	

APPEAL BRIEF

Mail Stop: APPEAL BRIEFS - PATENT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is an appeal from the decision of the Examiner mailed on January 7, 2005, finally rejecting claims 3-10 and 12-14 of the above-identified patent application. The appeal is timely filed in view of the petition for a one-month extension of time and fee filed herewith.

REAL PARTY IN INTEREST

The real party in interest in this appeal is Centurion Wireless Technologies, Inc. the successor of Centurion International, Inc. The Assignment to Centurion International, Inc. is evidenced at Reel 010686, Frame 0297.

RELATED APPEALS AND INTERFERENCES

Neither Appellants, Appellant's legal representative, nor Appellant's assignee know of appeals or interferences that will directly affect, or be directly affected by, or have a bearing on the Board's decision in the present appeal.

STATUS OF CLAIMS

Claims 1 and 2 have been canceled from the application

Claims 3-14 remain in this application.

This appeal is taken from the final rejection of claims 3-10 and 12-14.

No claims are allowed.

Claim 11 is objected to as allowable, but dependent on a rejected base claim

STATUS OF AMENDMENTS

All amendments to the case have been entered by the Examiner.

SUMMARY OF THE INVENTION

The present invention relates to wireless communication devices. More particularly, the present invention relates to a wireless communication device 10 (page 4, lines 2-12) that has two independent antennas, an external, retractable antenna 22 (page 4, line 17, to page 5, line 10) and an internal antenna 20 (page 4, line 26-16, and page 5, lines 1-10). The internal 20 and external 22 antennas are mounted directly on one another or mechanically coupled as indicated in figures 2 and 3 and independent claims 5 and 10.

GROUND OF REJECTION TO BE REVIEWED ON APPEAL

The grounds of rejection to be reviewed on appeal are:

- (1) Are claims 5-7 unpatentable under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 5,109,539 (“Inubushi et al.”)?
- (2) Are claims 3, 4, 8, and 9 unpatentable under 35 U.S.C. § 103(a) as obvious over Inubushi et al in view of United States Patent 4,862,182 (“Egashira”)?
- (3) Are claims 10, 12, 13 unpatentable under 35 U.S.C. § 103(a) as obvious over Inubushi et al in view of well known prior art?
- (4) Is claim 14 unpatentable under 35 U.S.C. § 103(a) as obvious over Inubushi et al in view of well known prior art in further view of Egashira?

GROUPING OF CLAIMS

The claims on appeal stand or fall together.

SUMMARY OF THE EXAMINER'S FINAL REJECTION

The Examiner finally rejected claims 3-10 and 12-14 in a January 7, 2005. The January 7, 2005 Final Office Action rejected the applicant's arguments presented in a paper and during an interview and essentially maintained a rejection contained in a June 17, 2004 Non-Final Office Action.

In the January 7, 2005 Final Office Action, the Examiner rejected claims 5-7 under 35 U.S.C. § 102(b) as being anticipated by Inubushi et al. In particular, the Examiner opines that Figures 4 and 5 of Inubushi et al. clearly disclose that "an external, retractable antenna 8 movably mounted on said internal antenna 10 and being movable between a retracted position and an extended position with respect thereto."

Regarding claims 3, 4, 8, and 9, the Examiner applies Inubushi et al. as applied to independent claim 5; however, the Examiner admits that Inubushi et al. does not disclose a remote RF port. The Examiner relies on Egashira to disclose a remote RF port.

Regarding claims 10, 12, and 13, the Examiner applies Inubushi et al. as applied in claim 1, but admits Inubushi et al. does not disclose "said transceiver circuit is in a printed circuit board (PCB) positioned in said housing 1. . . ." The Examiner believes at the time the present invention as filed, "it is notoriously well known in the art to place transceiver circuitry in a PCB positioned in a front portion of the housing of a wireless device for enhance operation."

Finally, regarding claim 14, the Examiner applies Inubushi et al. in view of the "known prior art" as indicated above, but admits the combination does not disclose a remote RF port. The Examiner relies on Egashira to disclose a remote RF port.

SUMMARY OF THE REFERENCES

Inubushi et al. relates to a portable communication device, such as, for example, a radio telephone. For example, Inubushi et al. discloses in Figures 4-6 a conventional portable telephone comprising a housing 1, a receiver 2 provided internal to the housing 1, and a voice hole 3 provided in the outer surface of the housing 1, a microphone 4 is provided in the housing 1 as well as an externally antenna 8. Antenna 8 is connected to housing 1 by connector 9. Housing 1 further includes an internal antenna 10 and a switch 11 that is a change-over switch to switch between external and internal antenna operation.

Egashira relates to an antenna for a portable radiotelephone. In particular, Egashira discloses a portable radiotelephone that has a retractable main antenna 1. Main antenna 1 is normally extended during telephone use and retracted when not in use. An internal sub-antenna element 10 is provided to allow reception of call signals from calling parties when main antenna 1 is in the retracted position. In the retracted position, sub-antenna element 10 electrically connects to conductive tube 9. When main antenna 1 is extended, cam 4 prevents sub-antenna element 10 from contacting conductive tube 9 electrically isolating the sub-antenna element 10.

The Examiner considers it “notoriously well known in the art to place transceiver circuitry in a PCB positioned in a front portion of the housing of a wireless device for enhanced operation.” The Examiner has not produced any specific evidence of this fact, which the applicants’ dispute, but as will be shown is largely not relevant as the present invention is clearly patentable over the reference.

ARGUMENT

Claims 3-14 are currently pending in this application. Claims 3-10 and 12-14 have been finally rejected as will be addressed further below. In the January 7, 2005, Final Office Action, the Examiner objected to the inclusion of Figure 4. The applicant has agreed to delete Figure 4, but the Examiner does not believe the proper paperwork has been submitted. The inclusion of the RF plot associated with Figure 4 is not necessary for an understanding of the invention, and once the Board has decided this appeal, the applicant will submit additional papers to delete Figure 4 from the application. Thus, for the purposes of this appeal, the objection to Figure 4 is not an issue the Board needs to decide.

1. ARE CLAIMS 5-7 UNPATENTABLE UNDER 35 U.S.C. § 102(B) AS BEING ANTICIPATED BY U.S. PATENT 5,109,539 (“INUBUSHI ET AL.”)?

The Examiner rejected claims 5-7 under 35 U.S.C. § 102(b) as being anticipated by Inubushi et al. The applicant respectfully traverses the rejection. In particular, claim 5 recites a combination of elements including, for example, “an external, retractable antenna movably *mounted on* said internal antenna . . .,” (emphasis added) which is not disclosed, taught, or suggested by Inubushi et al. While Inubushi et al. does disclose an internal antenna 10 and an external, retractable antenna 8, Inubushi et al. discloses external, retractable antenna 8 is mounted on the housing 1. In particular, at column 1, lines 34-36, Inubushi et al. states: “Element 9 is a member for mounting the external antenna 8 *to the housing* and electrically connecting it thereto.” (emphasis added). Thus, as clearly shown, Inubushi et al. does not disclose, teach, or suggest “an external, retractable antenna movably mounted on said internal antenna” as recited by claim 5 of the present application.

To the extent the Examiner contends that Figures 4 and 5 of Inubushi et al. disclose that external, retractable antenna 8 is mounted on internal antenna 10, the applicant respectfully submits the Examiner is reading too much into the Figures. Figures 4 and 5 show nothing more than the relationship and/or location of elements 8 and 10 in with regards to each other as well as other components of the radiotelephone. Figures 4 and 5 do not show antenna 8 mounted to sub-assembly 10. Furthermore, such as argument is directly counter to the above cited portion of the specification where the disclosure specifically states “Element 9 is a member for mounting the external antenna 8 to the housing”

Thus, for at least the above-mentioned reasons, is respectfully submitted that claim 5 is patentably distinct from Inubushi et al. The applicant respectfully requests the reversal of the rejection of claim 5.

Claims 6 and 7 depend from claim 5 and, at least by virtue of the dependency, are patentably distinct from Inubushi et al. The applicant respectfully requests the reversal of the rejection of claims 6 and 7.

2. ARE CLAIMS 3, 4, 8, AND 9 UNPATENTABLE UNDER 35 U.S.C. § 103(A) AS OBVIOUS OVER INUBUSHI ET AL IN VIEW OF UNITED STATES PATENT 4,862,182 (“EGASHIRA”)?

The Examiner rejected claims 3, 4, 8, and 9 under 35 U.S.C. § 103(a) as being unpatentable and obvious over Inubushi et al. in view of United States Patent 4,862,182 (“Egashira”). As an initial matter, Egashira does not cure the defect of Inubushi et al.

Moreover, the applicant respectfully suggests that the Examiner is reading more into the Egashira reference than the reference in fact discloses. In particular, the Examiner considers the “conductive tube 9” element of Egashira to be a remote RF port as recited in claims 3, 4, 8, and 9. The applicant

respectfully disagrees. The present invention specifically discloses the remote RF port 18 as mechanically connected to internal antenna 18. Rather than a remote RF port, Egashira discloses a conductive tube 9 that is part of the “antenna retaining mechanism” and is not a remote RF port. As described by Egashira “the antenna retain mechanism 5 consists of: A cylindrical fastening part 6 which is used to fasten the mechanism 5 to the case; a water-proof cap 8 equipped with an O-ring 7 to prevent water from seeping into the interior of the case, and a conductive tube 9 which has on its interior circumferential surface an engaging part capable of maintaining a state of electrical continuity with groove 3a which acts as the feeding conductive part of the main antenna element 1.” Furthermore, conductive tube 9 is only mechanically connected to sub-assembly 10 when the main antenna 1 is in the retracted position.

Thus, at least for the above-mentioned reasons, claims 3, 4, 8, and 9 are patentably distinct from Inubushi et al. and Egashira either alone or in any reasonable combination thereof for at least this additional reason. Therefore, the applicant respectfully requests the reversal of the rejection of claims 4, 3, 8, and 9.

3. ARE CLAIMS 10, 12, 13 UNPATENTABLE UNDER 35 U.S.C. § 103(A) AS OBVIOUS OVER INUBUSHI ET AL IN VIEW OF WELL KNOWN PRIOR ART?

The Examiner rejected claims 10, 12, and 13 under 35 U.S.C. § 103(a) as being unpatentable over Inubushi et al. in view of well-known prior art. The applicant respectfully traverses this rejection. Claim 10 contains recitations similar to claim 5 above and, at least by virtue of this similarity, is patentably distinct from Inubushi et al. The well known prior art the Examiner outlines, which applicant disagrees is in fact well known prior art, does not cure the defect in Inubushi et al described above. Thus, claim 10 is patentably distinct from

Inubushi et al. in view of the recited well known prior art. The applicant respectfully requests the reversal the rejection of claim 10. Claims 12 and 13 depend from claim 10 and, by virtue of this dependency are patentably distinct from the references either alone or in any reasonable combination thereof. Thus, the applicant respectfully requests the reversal of the rejection of claims 12 and 13.

4. IS CLAIM 14 UNPATENTABLE UNDER 35 U.S.C. § 103(A) AS OBVIOUS OVER INUBUSHI ET AL IN VIEW OF WELL KNOWN PRIOR ART IN FURTHER VIEW OF EGASHIRA?

The Examiner rejected claim 14 under 35 U.S.C. § 103(a) as being unpatentable and obvious over Inubushi et al. in view of the recited well known prior art in further view of Egashira. The applicant respectfully traverses this rejection. Claim 14 depends from claim 10 and contains similar to claims 3, 4, 8, and 9 identified above. Claim 14 is patentably distinct from Inubushi et al. in view of the recited well known prior art in part because of the dependency on claim 10, which is patentably distinct from Inubushi et al. in view of the well-known prior art. Further, Egashira does not cure the defects noted above. Also, claim 14 contains limitations similar to claims 3, 4, 8, and 9 and, by virtue of these similarities, is patentably distinct from the references alone or in any combination thereof. Essentially, the known prior art does not cure the defects of Inubushi et al. and Egashira identified above. Thus, the applicant respectfully requests the reversal of the rejection of claim 14.

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Conclusion

Based on the above, claims 3-14 are patentably distinct from the references to Inubushi et al., Egashira, and the allegedly known prior art either alone or in any reasonable combination thereof.

Request:

Reversal of the Examiner's final rejection of claims 3-10 and 12-14 under 35 U.S.C. §§ 102(b) and 103(a) is respectfully requested for the above-stated reasons.

Signed this 2 day of June, 2005.

Respectfully submitted,



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APPENDIX A

Claims 3-14 involved in this Appeal read as follows:

3. The wireless communication device of claim 5 wherein a remote RF port is provided which is mechanically connected to said internal antenna.
4. The wireless communication device of claim 6 wherein a remote RF port is provided which is mechanically connected to said internal antenna.
5. A wireless communication device, comprising:
 - a housing;
 - a transceiver circuit disposed within said housing;
 - an internal antenna disposed within said housing; and
 - an external, retractable antenna movably mounted on said internal antenna and being movable between a retracted position and an extended position with respect thereto;
 - said internal antenna being in circuit with said transceiver circuit when said external antenna is in its said retracted position;

said internal antenna being out of circuit with said transceiver circuit when said external antenna is in its said extended position;

said external antenna being in circuit with said transceiver circuit when in its said extended position;
and

said external antenna being out of circuit with said transceiver circuit when in its said retracted position.

6. The wireless communication device of claim 5 wherein a switching mechanism selectively connects either said external antenna or said internal antenna to said transceiver circuit.
7. The wireless communication device of claim 5 wherein said internal and external antennas are electrically disconnected from one another at all times.
8. The wireless communication device of claim 5 wherein a remote RF port is provided in said housing which is mechanically connected to said internal antenna.
9. The wireless communication device of claim 7 wherein a remote RF port is provided in said housing which is mechanically connected to said internal antenna.
10. A wireless communication device, comprising:

a housing including a front housing member and a back housing member;

said front and back housing members having upper and lower ends;

a printed circuit board positioned in said housing adjacent said front housing member which functions as a transceiver circuit;

an internal antenna positioned in said housing adjacent said upper end of said back housing member; and

an external, retractable antenna movably mounted on said internal antenna and being movable between a retracted position and an extended position with respect thereto;

said internal antenna being in circuit with said transceiver circuit when said external antenna is in its said retracted position;

said internal antenna being out of circuit with said transceiver circuit when said external antenna is in its said extended position;

said external antenna being in circuit with said transceiver circuit when in its said extended position; and

said external antenna being out of circuit with said
transceiver circuit when in its said retracted position.

11. The wireless communication device of claim 10 wherein said internal antenna has a front and back sides and wherein said back side of said internal antenna has a remote RF port formed in its back side; said back housing member having an opening formed therein which communicates with said remote RF port.
12. The wireless communication device of claim 10 wherein a switching mechanism selectively connects either said external antenna or said internal antenna to said transceiver circuit.
13. The wireless communication device of claim 10 wherein said internal and external antennas are electrically disconnected from one another at all times.
14. The wireless communication device of claim 10 wherein a remote RF port is provided which is mechanically connected to said internal antenna.